

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

COMMITTEE TO SAVE THE DERRY RAIL
TRAIL TUNNEL, *et al.*

Plaintiffs,

v.

SHAILEN BHATT, FEDERAL HIGHWAY
ADMINISTRATION, ADMINISTRATOR, *et al.*

Defendants.

Civil Action No. 1:24-cv-262-AJ

[PROPOSED] ORDER

Upon consideration of Plaintiffs' motion for preliminary injunction and relief under 5 U.S.C. § 705, this Court finds that

1. Plaintiffs have demonstrated a likelihood of success on the merits of their claims that the Defendants' 2024 Re-Evaluation and decision to proceed with construction of the Exit 4A Project across the M&L Railroad Historic District without the inclusion of an underpass as a mitigation measure violated Section 4(f) of the Department of Transportation Act, 23 U.S.C. § 138;
2. Unless approval of the design revisions analyzed in the 2024 Re-Evaluation (the "2024 Design") is stayed and construction according to the 2024 Design is enjoined, Plaintiffs will suffer irreparable harm;
3. The risk of irreparable harm to Plaintiffs outweighs any injury to Defendants, and the issuance of a stay and injunctive relief is in the public interest.

It is therefore by this Court:

ORDERED that the May 13, 2024, decision of Defendant Shailen Bhatt and Defendant Patrick Bauer approving the construction of the Exit 4A Project across the M&L Railroad Historic District according to the 2024 Design is postponed until further Order of this Court;

FURTHER ORDERED that Plaintiffs' application for a Preliminary Injunction is GRANTED;

FURTHER ORDERED that Defendants Administrator Bhatt and Administrator Bauer, and their employees, agents, grantees, and contractors, are enjoined from disbursing any federal funds or taking any further steps to construct the Exit 4A Project across the M&L Railroad Historic District according to the 2024 Design until further order of this Court; and

FURTHER ORDERED that Defendant Commissioner Cass and his employees, agents, grantees, and contractors are enjoined from taking any further steps to construct the Exit 4A Project across the M&L Railroad Historic District according to the 2024 Design until further order of this Court.

SO ORDERED on this ____ day of _____ 20__.

Andrea K. Johnstone
U.S. Magistrate Judge